



# Department of Justice

FOR IMMEDIATE RELEASE  
THURSDAY, AUGUST 5, 2004  
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## **JAPANESE EXECUTIVE AGREES TO PLEAD GUILTY TO PARTICIPATING IN AN INTERNATIONAL ANTITRUST CONSPIRACY**

### *Would be First Japanese Citizen to Serve a Prison Sentence in the U.S. for Antitrust Offense*

WASHINGTON, D.C. -- Hitoshi Hayashi, an executive of the Japanese chemical giant Daicel Chemical Industries Ltd., has agreed to plead guilty, to serve a three-month jail sentence in the United States, and to pay a \$20,000 fine for his role in a 17-year international conspiracy that suppressed competition in the food preservatives industry, the Department of Justice announced today. The penalties agreed to by Hayashi are subject to court approval. If approved by the Court, Hayashi would be the first Japanese citizen to serve a prison term in the United States for an antitrust offense.

The superseding felony case filed today in U.S. District Court in San Francisco charges Hayashi, a resident of Japan, with one count of fixing prices and allocating volumes of sorbates sold in the U.S. and elsewhere from 1992 until 1996, the time period of his participation in the conspiracy. Hayashi has agreed to cooperate fully with the ongoing federal investigation of anticompetitive behavior in the sorbates market.

“Today’s charge demonstrates the Justice Department’s ability to effectively enforce antitrust laws across international lines,” said R. Hewitt Pate, Assistant Attorney General in charge of the Department’s Antitrust Division. “We are committed to investigating and prosecuting all conspirators, whether domestic or foreign, that harm American businesses and consumers.”

The conspiracy to fix the prices and allocate the volume of sorbates sold in the United States and elsewhere affected nearly \$1 billion in U.S. commerce, the Department said. Roughly \$200 million worth of sorbates – which includes potassium sorbate and sorbic acid – are sold annually worldwide. Sorbates are chemical preservatives used primarily as mold inhibitors in high-moisture and high-sugar food products, such as baked goods, wine, and cheese.

Hayashi was originally indicted in January 2001 along with three other foreign defendants for participating in the sorbates cartel. Until now he has remained a fugitive beyond the reach of U.S. jurisdiction.

Once Hayashi has been sentenced on today's charge, he will be dismissed from a January 23, 2001 indictment. The January 23, 2001 indictment will stand against the three remaining defendants.

Companies from Europe, Japan, and the United States have already pled guilty to antitrust charges stemming from their involvement in the conspiracy. Those companies were sentenced to pay criminal fines totalling \$132 million.

Hayashi is charged with conspiring to suppress and eliminate competition among sorbates producers by:

- participating in meetings and conversations to discuss the prices and volumes of sorbates to be sold in the United States and elsewhere;
- agreeing, during those meetings and conversations, to charge prices at certain levels and otherwise to increase and maintain prices of sorbates to be sold in the United States and elsewhere;
- agreeing, during those meetings and conversations, to allocate among major producers the volumes of sorbates to be sold in the United States and elsewhere;
- issuing price announcements and price quotations in accordance with the agreements reached; and
- exchanging information on sales of sorbates in the United States and elsewhere for the purpose of monitoring and enforcing adherence to the agreed-upon prices and sales volumes.

James M. Griffin, the Antitrust Division's Deputy Assistant Attorney General for Criminal Enforcement, emphasized that "the Justice Department is continuing to gather information about these and other violations of United States antitrust laws by international cartels. Today's charge, and the cooperation that we will obtain through it, will enhance and further our efforts."

Hayashi has been charged with violating Section 1 of the Sherman Act, which carries a maximum penalty of three years imprisonment and a \$350,000 fine for an individual for violations occurring before June 22, 2004. The maximum fine may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

Today's case stems from a continuing investigation being conducted by the Antitrust Division's San Francisco Field Office and the Federal Bureau of Investigation in San Francisco.

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